

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
VITOLI MOURZAKHANOV,

Plaintiff,

VERIFIED ANSWER

-against-

Civil Action No.: 07 CV 6205(LAK)

DEWALT INDUSTRIAL TOOL CO.,  
DEWALT CONSTRUCTION TOOLS and  
BLACK AND DECKER (U.S.) INC.,

Defendants.

-----X

Defendant, BLACK & DECKER (U.S.) INC. sued herein as DEWALT INDUSTRIAL TOOL CO., DEWALT CONSTRUCTION TOOLS and BLACK AND DECKER (U.S.) INC., by its attorneys Calinoff & Katz LLP, answer the Verified Complaint herein, as follows:

1. Denies knowledge and information sufficient to form a belief as to the allegations set forth in paragraphs "1", "17", "18", "19", "20", "21" and "22" of the Complaint herein.
2. Denies each and every allegation set forth in paragraphs "3", "4", "5", "1" (duplicate numbering), "2" (duplicate numbering), "3" (duplicate numbering), "4" (duplicate numbering), "5" (duplicate numbering), "6", "7", "8", "9", "10", "11", "12", "13", "14", "15", "16", "23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "35" and "36" of the Complaint herein.
3. Repeats and repleads each and every denial hereinbefore set forth as though set forth at length hereat in response to paragraph "34" of the Complaint herein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

4. That any injuries and/or damages sustained by plaintiff were caused in whole or in part by the contributory negligence and/or culpable conduct of the plaintiff, and not as a result of any negligence and/or culpable conduct on the part of this answering defendant.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

5. The liability of this answering defendant is limited pursuant to C.P.L.R. Article 16.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

6. Any damages attributed to this answering defendant are limited pursuant to C.P.L.R. Section 4545.

WHEREFORE, this answering defendant demands judgment dismissing the Verified Complaint, together with the costs, disbursements and attorneys fees of this action.

Dated: New York, New York  
July 5, 2007

Yours, etc.,

CALINOFF & KATZ LLP

BY:



Robert A. Calinoff (RAC5743)

Attorneys for Defendant

BLACK & DECKER (U.S.) INC. sued herein as  
DEWALT INDUSTRIAL TOOL CO., DEWALT  
CONSTRUCTION TOOLS and BLACK AND  
DECKER (U.S.) INC.

140 East 45<sup>th</sup> Street  
17<sup>th</sup> Floor

New York, New York 10017

(212) 826-8800

TO:

John E. Durst, Jr.  
THE DURST LAW FIRM, P.C.  
Attorneys for Plaintiff  
319 Broadway  
New York, New York 10007  
(212) 964-1000

VERIFICATION

STATE OF NEW YORK        )  
                                      :SS  
COUNTY OF NEW YORK    )

ROBERT A. CALINOFF, affirms the following statement to be true under the penalties of perjury pursuant to Rule 2106 of the Civil Practice Law and Rules.

That I am a partner in the law firm of CALINOFF & KATZ LLP, attorneys for defendant, Black & Decker (U.S.) Inc. s/h/a DeWalt Industrial Tool Co., DeWalt Construction Tools and Black and Decker (U.S.) Inc.

That I have read the foregoing Verified Answer and know the contents thereof and the same is true to the knowledge of your affirmant except as to the matters therein alleged upon information and belief and that as to those matters I believe them to be true.

That the reason this affirmation is being made by your affirmant and not by the defendant is that said defendant is a foreign corporation and does not maintain an office with an officer having knowledge of the facts in the county where your affirmant's firm maintains its offices.

That the source of your affirmant's information and the grounds of my belief as to all matters herein alleged upon information and belief are reports from and communications had with said corporation.

Dated: New York, New York  
July 5, 2007



Robert A. Calinoff

STATE OF NEW YORK )  
:SS  
COUNTY OF NEW YORK )

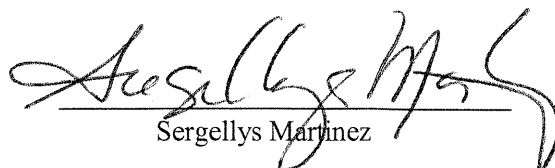
Sergellys Martinez, being duly sworn, deposes and says:

Deponent is not a party to the action, is over 18 years of age and resides in Bronx, New York;

On July 5, 2007, deponent served the within VERIFIED ANSWER upon:

John E. Durst, Jr.  
The Durst Law Firm, P.C.  
Attorneys for Plaintiff  
319 Broadway  
New York, New York 10007

by depositing a true copy of same enclosed in a post paid properly addressed wrapper, in an official depository  
under the exclusive care and custody of the United States Postal Service within the State of New York.

  
Sergellys Martinez

Sworn to before me this  
5<sup>th</sup> day of July, 2007

  
Notary Public

**CLAUDIA BLANCHARD**  
**Notary Public, State of New York**  
**No. 01BL6160575**  
**Qualified in Queens County**  
**Commission Expires Feb. 12, 2011**